रजिस्ट्री सं० डी०एल०-33004 / 2003 REGISTERED NO. DL-33004/2003

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II — खण्ड 2
PART II — Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 27] नई दिल्ली, शुक्रवार, मई 9, 2003/ वैशाख 19, 1925
No. 27] NEW DELHI, FRIDAY, MAY 9, 2003/ VAISAKHA 19, 1925

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced on 9th May, 2003:—

BILL NO. 38 OF 2003.

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Ninety-ninth Amendment) Act, 2003.

Amendment of article 332.

2. In article 332 of the Constitution, in clause (6), the following proviso shall be inserted, namely:—

"Provided that for elections to the Legislative Assembly of the State of Assam, the representation of the Scheduled Tribes and non-Scheduled Tribes in the constituencies included in the Bodoland Territorial Council Areas District, so notified, and existing prior to the constitution of the Bodoland Territorial Council Areas District, shall be maintained.".

STATEMENT OF OBJECTS AND REASONS

Article 332 of the Constitution of India provides for reservation of seats for the Scheduled Castes and the Scheduled Tribes in the Legislative Assemblies of the States. Clause (6) of article 332 stipulates that no person who is not a member of a Scheduled Tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district.

2. In pursuance of the Memorandum of Settlement signed on the 10th day of February, 2003 between the Government of India, Government of Assam and Bodo Liberation Tigers, and to protect the rights of the non-tribals, the existing representation of the Scheduled Tribes and non-Scheduled Tribes in the Legislative Assembly of the State of Assam from the Bodoland Territorial Council Areas District is proposed to be kept intact. It is, therefore, proposed to insert a proviso in clause (6) of article 332 of the Constitution.

3. The Bill seeks to achieve the above objects.

NEW DELHI;
The 7th May, 2003

L. K. ADVANI.

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BILL No. 40 OF 2003

A Bill to repeal the Illegal Migrants (Determination by Tribunals) Act, 1983 *and further to amend the Immigrants (Expulsion from Assam) Act,* 1950.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Illegal Migrants Laws (Repealing and Amending) Act, 2003.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

CHAPTER II

REPEAL OF THE ILLEGAL MIGRANTS (DETERMINATION BY TRIBUNALS) ACT, 1983

Repeal of Act 39 of 1983.

2. The Illegal Migrants (Determination by Tribunals) Act, 1983 is hereby repealed. 39 of 1983.

Savings and transitional provisions.

3. Notwithstanding the repeal of the Illegal Migrants (Determination by Tribunals) Act, 1983,—

(*a*) the Illegal Migrants (Determination) Appellate Tribunal established under sub-section (*1*) of section 15 of the said Act shall continue to function till all the appeals pending before it immediately before the commencement of the Illegal Migrants Laws (Repealing and Amending) Act, 2003 are disposed of by it;

(*b*) all the cases pending before the Illegal Migrants Tribunal immediately before the commencement of the Illegal Migrants Laws (Repealing and Amending) Act, 2003 shall stand transferred to the Tribunal constituted by the Central Government under sub-paragraph (*1*) of paragraph 2 of the Foreigners (Tribunals) Order, 1964 made under the Foreigners Act, 1946 for this purpose and the Tribunal so constituted shall proceed with the cases so transferred *de novo* as if such cases were referred to it by the Central Government under said sub-paragraph (*1*) for opinion; and 31 of 1946.

(*c*) the High Court may call for the record of any case which has been decided by the Illegal Migrants (Determination) Appellate Tribunals situated within its local jurisdiction, and if such Appellate Tribunal appears—

(*a*) to have exercised a jurisdiction not vested in it by law; or

(*b*) to have failed to exercise a jurisdiction so vested; or

(*c*) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court may make such order in the case as it thinks fit:

Provided that the High Court shall not, under this section, vary or reverse any order made or any order deciding an issue in the course of a proceeding with respect to an appeal, except where—

(*i*) the order, if it had been made in favour of the party applying for revision, would have finally disposed of the proceeding; or

(*ii*) the order, if allowed to stand, would occasion a failure of justice or cause irreparable injury to the party against whom it was made.

Explanation.—In this section, the expression "any case which has been decided" includes any order made or any order deciding an issue in the course of a proceeding with respect to any appeal.

CHAPTER III

AMENDMENT OF THE IMMIGRANTS (EXPULSION FROM ASSAM) ACT, 1950

Amendment of Act 10 of 1950.

4. In section 2 of the Immigrants (Expulsion from Assam) Act, 1950, after the proviso, the following *Explanation* shall be inserted, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that nothing in the proviso to this section shall apply to any person who, on or after the 25th day of March, 1971, has migrated to India from any area forming part of Bangladesh.".

STATEMENT OF OBJECTS AND REASONS

The Illegal Migrants (Determination by Tribunals) Act, 1983, (hereinafter referred to as Act) was enacted to provide for the establishment of Tribunals for the detection and expulsion of illegal migrants. The Act came into force in the State of Assam on the 15th day of October, 1983 to deport illegal migrants, who came to Assam on or after the 25th day of March, 1971, without lawful authority. The Act extends to the whole of India. However, it was not brought into force in any other State by the Central Government.

2. The detection and expulsion of illegal migrants under the Act has been very tardy. The Act has failed to fulfil the objectives for which it was enacted. The operation of the Act in Assam alone has been hurting the Assamese psyche and is one of the contributing factors for feeling of alienation in Assam. It has, therefore, been decided to repeal the Act so that the Foreigners Act, 1946, which is applicable throughout the territory of India also becomes operative in the State of Assam to expedite detection and deportation of illegal migrants. It is also proposed to make a consequential amendment in the Immigrants (Expulsion from Assam) Act, 1950 to clarify that the persons who have migrated from Bangladesh on or after the 25th day of March, 1971 would not be entitled to the benefit of protection under the proviso to section 2 of the Immigrants (expulsion from Assam) Act, 1950.

3. The Bill seeks to achieve the above objects.

NEW DELHI;
The 7th May, 2003.

L.K. ADVANI.

BILL NO. 41 OF 2003.

A Bill further to amend the Constitution of India.

BE *it* enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Constitution (Ninety-eighth Amendment) Act, 2003. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 124 of the Constitution, in clause (*2*), for the portion beginning with the words "after consultation" and ending with the words "Provided further that—", the following shall be substituted, namely:— Amendment of article 124.

"on the recommendation of the National Judicial Commission and shall hold office until he attains the age of sixty-five years:

Provided that—".

Insertion of new Chapter IVA.

3. In part V of the Constitution, after Chapter IV, the following chapter shall be inserted, namely:—

"CHAPTER IVA. — NATIONAL JUDICIAL COMMISSION

Constitution of National Judicial Commission and its functions.

147A. (*1*) The President shall by order constitute a Commission, referred to in this Constitution as the National Judicial Commission.

(*2*) Without prejudice to the provisions of clause (*3*), the National Judicial Commission shall consist of the following:—

(*a*) the Chief Justice of India, who shall be the Chairperson of the Commission;

(*b*) two other Judges of the Supreme Court next to the Chief Justice of India in seniority;

(*c*) the Union Minister in-charge of Law and Justice; and

(*d*) one eminent citizen to be nominated by the President in consultation with the Prime Minister:

Provided that the eminent citizen nominated under sub-clause (*d*) shall hold office for a period of three years.

(*3*) In the case of appointment or transfer of a Judge of a High Court, the Chief Justice of that High Court and the Chief Minister of that State or, when a proclamation under article 356 is in operation in that State, the Governor of that State, shall be associated with the Commission.

(*4*) it shall be the duty of the Commission—

(*a*) to make recommendation of persons for appointment of Judges of the Supreme Court, Chief Justices of High Courts and the Judges of the High Courts;

(*b*) to make recommendation for the transfer of the Chief Justices of High Courts and the Judges of High Courts from one High Court to any other High Court;

(*c*) to draw up a code of ethics for Judges of the Supreme Court. Chief Justices of High Courts and the Judges of the High Courts.

(*d*) to inquire into. *suo motu* or on a complaint or reference, cases of misconduct or such deviant behaviour of a Judge other than those calling for his removal and advise the Chief Justice of India or the Chief Justice of a High Court appropriately after such inquiry.

(*5*) The recommendation made by the Commission under clause (4) shall be binding.

(*6*) No person, who is not recommended for appointment as a Judge by the Commission, shall be so appointed by the President.

(*7*) The Commission shall have the power to regulate its own procedure including the procedure to be followed under sub-clause (*d*) of clause (*4*).".

Amendment of article 217.

4. In article 217 of the Constitution, in clause (*1*), for the portion beginning with the words "after consultation" and ending with the words "the High Court", the words "on the recommendation of the National Judicial Commission" shall be substituted.

Amendment of article 222.

5. In article 222 of the Constitution, in clause (*1*), for the words "after consultation with the Chief Justice of India", the words "on the recommendation of the National Judicial Commission" shall be substituted.

Amendment of article 231.

6. In article 231 of the Constitution, in clause (*2*), for sub-clause (*a*), the following sub-clause shall be substituted, namely:—

"(*a*) the reference in clause (*3*) of article 147A to the Chief Minister of the State shall be construed as a reference to the Chief Ministers of all the States in relation to which the High Court exercises jurisdiction:".

STATEMENT OF OBJECTS AND REASONS

The Government of India has been committed to the setting up of a National Judicial Commission for appointment of Judges of the Supreme Court, and Chief Justices and Judges of the High Courts as well as their transfer, so as to provide effective participation of both the Executive and the Judicial Wings of the Government. The National Commission to Review the Working of the Constitution also considered this matter and recommended the establishment of the National Judicial Commission under the Constitution for appointment of Judges of the Supreme Court.

2. The National Judicial Commission to make recommendations with respect to the appointment of Judges of the Supreme Court shall consist of—

(*i*) the Chief Justice of India, who shall be the Chairperson of the Commission;

(*ii*) two other Judges of the Supreme Court next to the Chief Justice of India in seniority;

(*iii*) the Union Minister in-charge of Law and Justice; and

(*iv*) one eminent citizen to be nominated by the President of India in consultation with the Prime Minister for a period of three years.

In the case of appointment or transfer of a Judge of a High Court, the concerned Chief Justice and the Chief Minister, or when a proclamation under article 356 is in operation in a State, the Governor of that State shall be associated with the Commission.

3. The Commission shall draw up a Code of Ethics for the Judges of the Supreme Court, the Chief Justices and the Judges of the High Courts and would inquire into cases of their misconduct or deviant behaviour and advise the Chief Justice of India or the Chief Justice of the High Court concerned, appropriately.

4. The Bill seeks to achieve the above objects.

ARUN JAITLEY.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. K.11011/3/2003-US.II, dated the 8th May, 2003 from Shri Arun Jaitley, Minister of Law and Justice to the Secretary-General, Lok Sabha]

The President, having been informed of the subject matter of the proposed Constitution (Ninety-eighth Amendment) Bill, 2003 has recommended the introduction of the Bill under clause (1) of article 117 of the Constitution in Lok Sabha.

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to insert a new Chapter IVA in Part V of the Constitution to provide for the constitution of a Commission to be referred to as the National Judicial Commission. The Commission shall comprise the Chief Justice of India, who shall be its Chairperson, two judges of the Supreme Court next to the Chief Justice of India in seniority, the Union Minister in-charge of Law and Justice and one eminent citizen to be nominated by the President of India in consultation with the Prime Minister.

2. The above mentioned functionaries of the Commission will be devoting only part of their time in connection with the work of the Commission and will draw traveling and other allowances from the respective budgets. The Commission will have a separate office of its own. The President may, by regulation and on the advice of the Chairperson of the Commission, make provisions with respect to the number of members of the staff of the Commission and other consitions of service. The expenditure will have to be incurred on their salaries and on contingencies for running the office of the Commission. It is not feasible, at this stage, to estimate the likely expenditure to be involved on this account. However, the expenditure, whether recurring or non-recurring will be met out of the budgetary accounts of the Department of Justice.

3. The provisions of the Bill do not involve any other expenditure of a recurring or non-recurring nature.

BILL NO. 39 OF 2003.

A Bill further to amend the Constitution of India in its application to the State of Assam.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Sixth Schedule to the Constitution (Amendment) Act, 2003.

Amendment of Sixth Schedule to the Constitution.

2. The Sixth Schedule to the Constitution shall, in its application to the State of Assam, have effect subject to the following modifications, namely:—

(*1*) In paragraph 1, after sub-paragraph (2), the following proviso shall be inserted, namely:—

"Provided that nothing in this sub-paragraph shall apply to the Bodoland Territorial Council Areas District constituted under the proviso to sub-paragraph (3) of paragraph 2 of this Schedule.";

(2) In paragraph 2, after sub-paragraph (1), the following proviso shall be inserted, namely:—

"Provided that the Bodoland Territorial Council Areas District shall consist of not more than forty-six members of whom forty shall be elected on the basis of adult suffrage, of whom thirty shall be reserved for the Scheduled Tribes, five for non-tribal communities, five for other communities and the remaining six shall be nominated by the Governor having same rights and privileges as other members, including voting rights, from amongst the un-represented communities of the Bodoland Territorial Council Areas District, of which at least two shall be women.";

(3) In paragraph 2, in sub-paragraph (3), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that the District Council constituted for the Bodoland areas shall be called as the Bodoland Territorial Council Areas District.";

(4) In paragraph 3, for sub-paragraph (3), the following sub-paragraph shall be substituted, namely:—

"(3) Save as otherwise provided in sub-paragraph (2) of paragraph 3A or sub-paragraph (2) of paragraph 3B, all laws made under this paragraph or sub-paragraph (1) of paragraph 3A or sub-paragraph (1) of paragraph 3B shall be submitted forthwith to the Governor and, until assented to by him, shall have no effect.";

(5) After paragraph 3A, the following paragraph shall be inserted, namely:—

"3B. *Additional powers of the Bodoland Territorial Council Areas District to make laws.* (1) Without prejudice to the provisions of paragraph 3, the Bodoland Territorial Council Areas District within its Bodoland areas shall have power to make laws with respect to:— (i) Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases; (ii) Animal husbandry and veterinary, that is to say, preservation, protection and improvement of stock and prevention of animal diseases, veterinary training and practice, cattle pounds; (iii) Co-operation; (iv) Cultural affairs; (v) Education, that is to say primary education, higher secondary including vocational training, adult education, college education (general); (vi) Fisheries; (vii) Flood control for protection of village, paddy fields, markets and towns (not of technical nature); (viii) Food and civil supply; (ix) Forests (other than reserved forests); (x) Handloom and textile; (xi) Health and family welfare; (xii) Intoxicating liquors, opium and derivatives, subject to the provisions of entry 84 of List I of the Seventh Schedule; (xiii) Irrigation; (xiv) Labour and employment; (xv) Land and revenue; (xvi) Library services (financed and controlled by the State Government); (xvii) Lotteries (subject to the provisions of entry 40 of List I of the Seventh Schedule), theatres, dramatic performances and cinemas (subject to the provisions of entry 60 of List I of the Seventh Schedule); (xviii) Markets and fairs; (xix) Municipal Corporation, improvement trust, district boards and other local authorities; (xx) Museum and archaeology institutions controlled or financed by the State, ancient and historical monuments and records other than those declared by or under any law made by Parliament to be of national importance; (xxi) Panchayat and rural development; (xxii) Planning and development; (xxiii) Printing and stationery; (xxiv) Public health engineering; (xxv) Public works department; (xxvi) Publicity and public relations; (xxvii) Registration of births and deaths; (xxviii) Relief and rehabilitation; (xxix) Sericulture; (xxx) Small, cottage and rural industry subject to the provisions of entries 7

and 52 of List I of the Seventh Schedule; (xxxi) Social welfare; (xxxii) Soil conservation; (xxxiii) Sports and youth welfare; (xxxiv) Statistics; (xxxv) Tourism; (xxxvi) Transport (roads, bridges, ferries and other means of communications not specified in List I of the Seventh Schedule, municipal tramways, ropeways, inland waterways and traffic thereon subject to the provision of List I and List III of the Seventh Schedule with regard to such waterways, vehicles other than mechanically propelled vehicles); (xxxvii) Tribal research institute controlled and financed by the State Government; (xxxviii) Urban development – town and country planning; (xxxix) Weights and measures subject to the provisions of entry 50 of List I of the Seventh Schedule; and (XL) Welfare of plain tribes and backward classes:

Provided that nothing in such laws shall—

(*a*) extinguish or modify the existing rights and privileges of any citizen in respect of his land at the date of commencement of this Act; and

(*b*) disallow any citizen from acquiring land either by way of inheritance, allotment, settlement or by any other way of transfer if such citizen is otherwise eligible for such acquisition of land within the Bodoland areas.

(2) All laws made under paragraph 3 or under this paragraph shall in so far as they relate to matters specified in List III of the Seventh Schedule, be submitted forthwith to the Governor who shall reserve the same for the consideration of the President.

(3) When a law is reserved for the consideration of the President, the President shall declare either that he assents to the said law or that he withholds assent therefrom:

Provided that the President may direct the Governor to return the law to the Bodoland Territorial Council Areas District, together with the message requesting that the said Council will reconsider the law or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when the law is so returned, the said Council shall consider the law accordingly within a period of six months from the date of receipt of such message and, if the law is again passed by the said Council with or without amendment it shall be presented again to the President for his consideration.";

(*6*) In paragraph 4, after sub-paragraph (5), the following sub-paragraph shall be inserted, namely:—

"(6) Nothing in this paragraph shall apply to the Bodoland Territorial Council Areas District constituted under the proviso to sub-paragraph (3) of paragraph 2 of this Schedule.";

(*7*) In paragraph 10, after sub-paragraph (3), the following sub-paragraph shall be inserted, namely:—

"(4) Nothing in this paragraph shall apply to the Bodoland Territorial Council Areas District constituted under the proviso to sub-paragraph (3) of paragraph 2 of this Schedule.";

(*8*) In paragraph 12, in sub-paragraph (1), in clause (*a*), for the words, figures and letter "matters specified in paragraph 3 or paragraph 3A of this Schedule", the words, figures and letters "matters specified in paragraph 3 or paragraph 3A or paragraph 3B of this Schedule" shall be substituted;

(*9*) In paragraph 17, the following proviso shall be inserted, namely:—

"Provided that nothing in this paragraph shall apply to the Bodoland Territorial Council Areas District constituted under the proviso to sub-paragraph (3) of paragraph 2 of this Schedule.";

(*10*) In paragraph 19, after sub-paragraph (3), the following sub-paragraph shall be inserted, namely:—

"(4) As soon as possible after the commencement of this Act, an Interim Executive Council for Bodoland Areas in Assam shall be formed by the Governor from amongst leaders of the Bodo movement, including the signatories to the Memorandum of Settlement, and shall provide adequate representation to the non-tribal communities in that area:

Provided that the Interim Council shall be for a period of six months during which endeavour to hold the election to the Council shall be made.

Explanation.—For the purposes of this sub-paragraph, the expression "Memorandum of Settlement" means the Memorandum signed on the 10th day of February, 2003 between Government of India, Government of Assam and Bodo Liberation Tigers.";

(*11*) In paragraph 20, in Part I of the Table, after entry 2, the following entry shall be inserted, namely:—

"3. The Bodoland Territorial Areas District.".

STATEMENT OF OBJECTS AND REASONS

The provisions of the Sixth Schedule to the Constitution have evolved a separate scheme for the governance of the tribal areas in the States of Assam, Meghalaya, Mizoram and Tripura through the District Councils or Regional Councils. There are three parts in the Table appended to the Schedule. They are so divided in order to distinguish the Areas. The Areas in Part I represent the Tribal Areas of Assam. Each of these Areas constitutes an "autonomous district". The provisions in paragraphs 1 to 17 of the Sixth Schedule relate to the Administration of these autonomous districts. The Councils are vested with legislative powers on specified subjects and are allotted sources of taxation. They have also been given powers to set up and administer their system of justice and maintain administrative and welfare services in respect of land, revenue, forests, education, public health, etc.

2. The Bodo Accord was signed on February 20, 1993 with All Bodo Students Union and Bodo People's Action Committee, with the objective to provide maximum autonomy to the Bodos within the framework of the Constitution for their social, economic, educational and cultural advancement. In pursuance to the Bodo Accord, an Interim Bodoland Autonomous Council (BAC) was constituted by the Government of Assam by enacting State Legislation. Bodo groups were of the view that Bodo Accord had become unworkable due to non-implementation of the Accord in letter and spirit. Based on the tripartite talks, a Memorandum of Settlement (MOS) has been signed between the Central Government, the Government of Assam and Bodo Liberation Tigers (BLT) on 10.2.2003 for a durable solution to the Bodo issues.

3. To meet the aspirations of the Bodos in Assam and in pursuance of the MOS, it is proposed to—

(i) create an autonomous self-governing body to be known as the Bodoland Territorial Council (BTC) within the State of Assam, which shall have legislative, administrative and financial powers in respect of specified subjects;

(ii) provide for adequate safeguards for the non-tribals in the BTC area to ensure that they are not put to any disadvantage in relation to any rights and privileges including land rights presently enjoyed by them at the commencement of BTC.

4. The Bill seeks to achieve the above objects.

L. K. ADVANI.

G. C. MALHOTRA,
Secretary-General.

PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI
AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 2003.

MGIPMRND—1096GI—23.05.2003.